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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/041,698	03/13/1998	STEPHAN HUFFER	47852	3698
26474	7590	03/01/2004	EXAMINER	
KEIL & WEINKAUF 1350 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036			LU, C CAIXIA	
			ART UNIT	PAPER NUMBER
			1713	

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Office Action Summary</p>	Application No. 09/041,698	Applicant(s) HUFFER ET AL.	
	Examiner Caixia Lu	Art Unit 1713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 3-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over 35 U.S.C. 103(a) as being unpatentable over Shinosaki et al. (JP 07-025946, translated copy), and Noristi et al. (US 5,244,854) independently for the same rationale as set forth in the previous Office action mailed on September 8, 2003.

Response to Arguments

3. Applicant's arguments filed on January 7, 2004 have been fully considered but they are not persuasive.

Applicants argue that Shinosaki does not suggest the use of a Mg chlorine free alkyl compound as a starting material and cite Working Example 1 (page 47, [0174]) for support. The examiner disagrees. Reference is taken in its entirety, isolated teaching should not be used to against its entirety. As shown in page 3 in the previous Office action: " the solid titanium catalyst component is prepared by "a process that brings a contact-reaction product of an inorganic carrier and an organomagnesium compound into contact with a titanium compound and preferably with an electron donor" (page 22, (3)). The magnesium compound (chlorine-free), titanium compound and electron donor are particularly taught in page 18, [0055], page 19, [0057] to [0059], pages 20-21, [0064]".

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Applicants argue that "only example 9 of Noristi utilizes a chlorine free Mg compound, however, the alcohol is reacted beforehand with the Mg compound in order to prepare an alkoxy derivative which is then supported on silica. Claim 3 of the applicants invention requires that the alcohol is reacted with the Mg chlorine free alkyl compound already supported in silica". Again, applicants are incorrectly using isolated teaching of the reference against its entirety. Noristi's col. 5, lines 6-17 and line 44 are cited on page 4 in the previous Office action, where Noristi teaches:

filtrate. The treatment with the titanium compound can be repeated When the metal oxide support is impregnated with magnesium compounds containing Mg—C bonds, in particular Mg-alkyl bonds, in order to have a high activity of the catalysts, it is necessary to transform said magnesium compounds, prior to the reaction with the titanium compound, into magnesium dihalides or into compounds which are no longer capable of reducing the tetravalent titanium (i.e. they do not contain Mg—C bonds), and can be transformed into magnesium dihalides by reaction with the titanium halide or halogen alcoholate. To accomplish this purpose the metal oxide support containing the Mg compound with Mg-C bonds is reacted with compounds such as HCl, SiCl₄, chlorosilanes, HSiCl₃, Al-alkyl halides, water, alcohols, carboxylic acids, orthoesters, esters, aldehydes, ketones and carbon dioxide.

In view Noristi's teaching, Noristi clearly suggest treating the Mg compound with Mg-C bonds supported on metal oxide (such as silica) with compound such as alcohols in order to achieve a high activity of the catalysts.

In view of the above, the rejections are deemed proper and, thus, maintained.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caixia Lu whose telephone number is (571) 272-1106. The examiner can normally be reached from 9:00 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful and the matter is urgent, the examiner's supervisor, David Wu, can be reached at (571) 272-1114. The fax numbers for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-0994.



Caixia Lu, Ph. D.
Primary Examiner
Art Unit 1713
February 22, 2004